

**TOWN OF ELLICOTTVILLE
ZONING BOARD OF APPEALS**

Thursday, August 3, 2023 at the Town Center at 6:00 p.m.

PRESENT: Cindy Dayton, Chairperson
Kathy McGoldrick, Member
Gail Scheeler, Member
Harry Weissman, Member

ALSO PRESENT: Gregory Keyser-Town Planner, Kelly Fredrickson-CEO, Lauren Adornetto-Attorney, Jim Churchill-Architect

Ms. Cindy Dayton, Chairperson called the meeting to order at 6:00 p.m. and presented the agenda.

Ms Dayton presented TZP-2023-242, 19 Plum Ridge- Bradley and Lauren Derrick, area variance request to Section 3.5(D)(2) to allow the construction of a 310 square foot addition approximately 5.38 feet from the rear property line. The property encompasses approximately 5.32 acres and is situated in the High Density Residential District. The current use of the property is a multi-unit townhouse, which is permitted in the HD District.

Ms. Lauren Adornetto, Attorney for the applicants, advised that the townhouse unit at 19 Plum Ridge is an end unit. The applicant is asking for the rear property line to 5.38 feet where 15 feet is required in the zoning in order to update the unit with added living space. The property abuts the ski slope. She asked that a public hearing be set for the September meeting so the process can move along.

Mr. Jim Churchill, Architect, presented the survey of the property. He noted that the addition will extend under the existing deck and that a new deck will line up with the neighbors unit. The applicants need added living space in order to use the unit year around.

Ms. Dayton asked, is there a Homeowners Association involved?

Mr. Churchill said yes, the HOA has approved the project.

Mr. Keyser asked that the applicant provide a document from the HOA approving the proposed addition.

Mr. Churchill said he will provide the document.

Mr. Keyser advised that the project appears to meet the definition of a Type 2 action under SEQR 617.5(c)(6) involving the granting of an area variance from a setback requirement. The Planning Department recommends that the ZBA classify the project as a Type 2 Action.

The project site is within 500 feet of NYS Route 242 and the Village of Ellicottville. However, the granting of residential area variances involving building structure setbacks are exempt

from 239 referral to the Cattaraugus County Planning Board per the Exemption Agreement between the County and the Village.

If the Board feels it has enough information for a meaningful public review a public hearing can be set for the September meeting.

Ms. McGoldrick said that with assurance that a written document from the HOA will be provided we should not hold up the public hearing.

Moved by Ms. Scheeler to set a public hearing for TZIP-2023-242, 19 Plum Ridge, Bradley and Lauren Derrick, area variance request to the rear yard setback for September 7, 2023 at 6:00 p.m. Seconded by Ms. McGoldrick. Ayes all. Carried.

Ms. Dayton presented TZIP-2023-267, 6599 Route 219, Reid Petroleum, area variance requests from Section 3.5(D)(2) to allow the construction of a gasoline service station and general retail establishment. The property encompasses approximately 1.70 acres and is situated in the General Commercial District.

The proposed use for a gasoline service station and general retail establishment with a drive-up window is allowed in the General Commercial District with a Special Use Permit and Site Plan Approval from the Planning Board.

Mr. Keyser advised that the proposed project did not meet the dimensional standards so he had to deny the zoning permit. The applicant can make changes to the project or apply to the Zoning board of Appeals for an interpretation of the zoning code as it relates to his decision.

The ZBA needs to determine if the application is complete, initiate the SEQR process, refer the project to the Cattaraugus County Planning Board and then to the Town Planning Board. Ms. Dayton said she thinks the application should go to the Town Planning Board for Site Plan and Special Use Permit review first. If changes are made to the plan, variances may not be needed. The Town Planning Board should initiate SEQR.

Ms. McGoldrick asked, as a moral issue to the Town Board should we allow more fossil fuel establishments in a day when electric vehicles are being encouraged?

Mr. Weissman noted that the Zoning Code allows gas stations with a Special Use Permit.

Ms. Dayton noted that the configuration of the building lot is an issue and someone with authority needs to look at it.

Mr. Keyser said a 4000 square foot building is proposed. The underground tanks have been moved back since the initial submission. A traffic study will be needed.

Ms. McGoldrick asked, why would we need a traffic study?

Ms. Dayton advised that we required a traffic study from Steelbound and Tim Horton's for their projects.

Ms. Dayton asked for a motion to defer the application to the Town Planning Board for review.

Moved by Mr. Weissman to defer TZP-2023-267, 6599 Route 219, Reid Petroleum, proposed gas service station and general retail establishment to the Town Planning Board for Site Plan, Special Use Permit and SEQR review. Seconded by Ms. Scheeler. Ayes all. Carried.

Mr. Keyser noted that he put this plan before the ZBA first because consultants as well as staff are involved. We need to be sure the review process is followed and the Board did its due diligence so the decision cannot be challenged.

The Minutes of the May 25, 2023 meeting were read.

Ms. Dayton referred to TZP-2023-160, 7328 Route 219 North, Manoel and Amanda Nazareth, a project to allow the construction of a 24' x24' (576 square foot) one story addition to the rear of the existing house. She noted that there is a new deck on the side of the house along Cotter Road. No deck was proposed in the plans that were reviewed by the ZBA.

Mr. Fredrickson said he can issue a stop work order and make sure the project is built according to the approved plans.

Mr. Keyser said that granting of variances is part of the building permit process and the project has to be built to the approved plans.

Moved by Ms McGoldrick to approve the Minutes of May 25, 2023 as read. Seconded by Ms. Scheeler. Ayes all. Carried.

Moved by Ms. Scheeler to adjourn. Seconded by Mr. Weissman. Aues all. Carried.

The meeting was adjourned at 6:40 p.m.